

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BILLY ACOX,

Plaintiff,

v.

GREG COX,

Defendants.

3:14-cv-238-RCJ-VPC

ADDENDUM TO ORDER #8

I. DISCUSSION

On September 29, 2014, this Court issued a screening order dismissing Counts I and II with leave to amend and dismissing Count III, with prejudice, as amendment would be futile. (ECF No. 8 at 8).

Plaintiff is granted leave to file an amended complaint to cure the deficiencies of Counts I and II. If Plaintiff chooses to file an amended complaint he is advised that an amended complaint supersedes the original complaint and, thus, the amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). Plaintiff’s amended complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the amended complaint on this Court’s approved prisoner civil rights form and it must be entitled “First Amended Complaint.”

The Court notes that if Plaintiff chooses to file an amended complaint curing the

1 deficiencies of Counts I and II, as outlined in this Court's September 29, 2014 order, Plaintiff
2 shall file the amended complaint within 30 days from the date of entry of this order. If Plaintiff
3 chooses not to file an amended complaint curing the stated deficiencies in Counts I and II, this
4 action will be dismissed without prejudice.

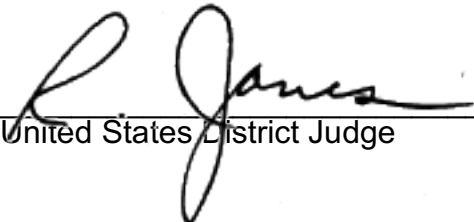
5 **II. CONCLUSION**

6 For the foregoing reasons, IT IS ORDERED that if Plaintiff chooses to file an amended
7 complaint curing the deficiencies of Counts I and II, as outlined in this Court's September 29,
8 2014 order, Plaintiff shall file the amended complaint within 30 days from the date of entry of
9 this order.

10 IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the
11 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
12 original complaint (ECF No. 9). If Plaintiff chooses to file an amended complaint, he must use
13 the approved form and he shall write the words "First Amended" above the words "Civil Rights
14 Complaint" in the caption.

15 IT IS FURTHER ORDERED that if Plaintiff fails to file an amended complaint curing the
16 deficiencies outlined in this Court's September 29, 2014 order, this action will be dismissed
17 without prejudice.

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19 Dated: This 30th day of September, 2014.

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22 United States District Judge
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